IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 1899 of 1992

Shri Mourya Jay Prakash B. .. Petitioner.
V/s.
State of Maharashtra & Ors. .. Respondents.

Ms. Geeta Menon for the Petitioner.
Mr. S.M. Dandekar, AGP. for the Respondent Nos. 1 and 2.

CORAM : S. RADHAKRISHNAN &
S.J. VAZIFDAR, JJ.
DATED : 06.09.2004.

P.C. :-

1. Heard the learned counsel for the Petitioner and the learned Assistant Government Pleader for the Respondent Nos. 1 and 2. None appears for the Respondent Nos. 3 and 4, though served.

2. The short issue involved in this Petition is that the Petitioner was appointed as an Assistant Teacher on 16.8.1991 and his services came to be terminated with effect from 1.5.1992. The Petitioner is claiming his salary for the period from 16.8.1991 to 30.4.1992. It appears that the Petitioner's appointment was originally approved by the Respondent Nos. 1 and 2, however the same came to be cancelled subsequently by Respondent Nos. 1 and 2. There is no dispute that the Petitioner has worked in Respondent Nos. 3 and 4's Institution as an Assistant Teacher and as such the Petitioner is claiming the salary. There is no dispute that the Petitioner has taught in Respondent No. 3's Junior College during the aforesaid period. The Petitioner is claiming salary for the aforesaid period of 16.8.1991 to

30.4.1992, however, it is also an admitted position that

the Petitioner did not continue in the academic year June, 1992 to April 1993. Under these circumstances, the Petitioner can not claim the vacation salary for the period from 1.5.1992 to 13.6.1992.

3. The learned counsel for the Petitioner brought to our notice the judgment of the Supreme Court in **Anadi Mukti Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani reported in AIR 1989 S.C. 1697,** wherein the Supreme Court has clearly held that the primary responsibility to pay the salary is with the Institution and the Institution is at liberty thereafter to recover the same by processing with the Education department. There is no dispute in the instant case the Petitioner has taught in the said Respondent No. 3 Junior College for the aforesaid period from 16.8.1991 to 30.4.1992. Under these circumstances, we direct the Respondent Nos. 3 and 4 to pay the salary of the Petitioner for the aforesaid period of 16.8.1991 to 30.4.1992 as expeditiously as possible, preferably within 8 weeks from today. Rule is made absolute in the above terms.

(S. RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)